

Hearing Date: January 10, 2018 at 11:00 a.m. (AST)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,
Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

UNIÓN DE TRABAJADORES DE LA
INDUSTRIA ELÉCTRICA Y RIEGO (UTIER),

Plaintiff,

v.

PUERTO RICO ELECTRIC POWER AUTHORITY;
THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO;
JOSÉ B. CARRIÓN III; ANDREW G. BIGGS;
CARLOS M. GARCÍA; ARTHUR J. GONZÁLEZ;
JOSÉ R. GONZÁLEZ; ANA J. MATOSANTOS;
DAVID A. SKEEL, JR. AND JOHN DOES 1-7

Defendants.

No. 17 BK 4780-LTS

(Jointly Administered)

Adv. Proc. No. 17-00228-LTS

INFORMATIVE MOTION REGARDING ATTENDANCE AT
THE JANUARY 10, 2018 HEARING ON THE AURELIUS MOTIONS AND UTIER
ADVERSARY PROCEEDING

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

To the Honorable United States District Judge Laura Taylor Swain:

The Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”) through its undersigned counsel, hereby states and prays as follows.

1. The undersigned, appearing in this proceeding on behalf of AAFAF, hereby respectfully submit this motion in response to the Court’s order entered on January 3, 2018 regarding the location and procedures for attendance, participation and observation of the January 10, 2018 Hearing on the Aurelius Motions and UTIER Adversary Proceeding (the “January 10 Hearing”) (ECF Doc. No. 111 in Adv. Proc. No. 17-228-LTS; ECF Doc. No. 2202 in Case No. 17-03283).

2. Walter Dellinger of O’Melveny and Myers LLP will appear in person on behalf of AAFAF in the New York courtroom at the January 10 Hearing and seeks to present the perspective of the Government of Puerto Rico on the following matters:

- a. *The Objection and Motion of Aurelius to Dismiss Title III Petition* filed on August 17, 2017, in BK-3283-LTS (ECF Doc. No. 913; the “Aurelius Motion to Dismiss”).
- b. *The Motion to Dismiss Plaintiff’s Amended Adversary Complaint Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6)*, filed on November 20, 2017 by the Defendants in Adversary Proceeding 17-228-LTS (ECF Doc. No. 88; the “UTIER Motion to Dismiss”). AAFAF seeks to address the UTIER Motion to Dismiss only to the extent the motion seeks dismissal of UTIER’s First Amended Adversary Complaint (ECF Doc. No. 75) under Federal Rule of Civil Procedure 12(b)(6).

3. As the Court has recognized, these two motions address nearly identical allegations that the procedures set forth in PROMESA² for appointing members of the Financial Oversight and Management Board (“Oversight Board”) violated the Appointments Clause of the United States Constitution, U.S. Const. art. II, § 2, cl. 2, and the underlying separation-of-powers principles. AAFAF therefore seeks to address the two motions together.

4. John J. Rapisardi and William Sushon of O’Melveny & Myers, LLP, and Mark Bloom of Greenberg Traurig, LLP, will also be attending the January 10 Hearing but do not seek to be heard.

5. Counsel in San Juan, Andrés W. López, intends to appear at the January 10 Hearing in the San Juan courtroom but does not seek to be heard.

² Puerto Rico Oversight, Management, and Economic Stability Act, Pub. L. No. 114-187, 130 Stat. 549 (2016) (codified at 48 U.S.C. § 2101 *et seq.*).

Dated: January 4, 2018
San Juan, Puerto Rico

/s/ Andrés W. López

Andrés W. López
USDC No. 215311

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